

R E M A R K S

After careful consideration of the outstanding Office Action, this application has been amended accordingly, and favorable reconsideration and allowance of the claims or record is herewith respectfully requested.

The Examiner rejected independent claim 10 at page 2, paragraph 2 of the outstanding Office Action "under 35 U.S.C. 102(b) as being anticipated by DE Patent No. 3834812 to Baumli."

The description of the Baumli patent provided by the Examiner is interesting, but less than candid. The Examiner first states: "the major opposing surface area portions of the first and second paper sheets first paper surfaces being adhesively bonded to each other." The undersigned finds no support for the latter-quoted allegation. The only mention in this patent of adhesive is the "adhesive strip or layer (4)." This ensures that once the packet has been opened, it can be refolded and resealed to store any remaining seeds until a later date." (See the translated abstract.)

The Examiner next states: "a germinative seed - S housed between the minor opposing surface area portions which minor opposing surface area portions and the germinative seed housed therein can be subsequently planted." The minor opposing surface area portions 7 are torn along the line of perforations 8 to permit seeds S to be poured through the opening formed thereby and the minor surface area portions 7 are obviously discarded and are not "subsequently planted" in any fashion whatsoever. "A prior art reference anticipates a claim, and thus invalidates it under 35 U.S.C. § 102 if that reference discloses each and every element of the claim." (See Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, USPQ2d 1913, 1920 (Fed. Cir.), See Stoller v. Ford Motor Co., 18 USPQ2d 1545, 1546.)

Obviously, claim 10, prior to the present amendment thereof, is not in any fashion anticipated by the Baumli disclosure.

Claim 10, as twice amended, further defines the paper product by calling for the major opposing surface area portions which are adhesively bonded to each other to be "devoid of germinative seeds therebetween." Such is obviously not the case in the Baumli patent.

Twice amended claim 10 has been further amended to recite that the minor opposing surface area portions and the germinative seed housed therein can be "entirely bodily removed as a plantable unit from said major opposing surface area portions along said lines of perforations for subsequent planting." As was noted earlier herein, the removed portions 7 of the Baumli patent are discarded and do not constitute a plantable unit.

Obviously, the allowance of claim 10 for the reasons just expressed based upon the limitations now appearing in claim 10 is believed proper and would be most appreciated.

Quite obviously, the allowance of the claims depending directly or indirectly from claim 10 is also respectfully requested.

Several further comments are considered necessary with regard to the Examiner's observations with respect to many of the dependent claims of record.

As a first example, the Examiner states with respect to claims 15 and 26 that the patent to Baumli discloses a line of perforations 8 which is allegedly "a substantially continuous closed line of perforations - see for example figures 5-6." Since the line of perforations 8 ends at opposite ends, it cannot be continuous. The Examiner admits with respect to claims 12 and 23 that the line of perforations "has opposite ends - see for example figures

5-6." A line having opposite ends, whether perforations or otherwise, ends at the opposite ends and thus by definition cannot be continuous. Therefore, the patent to Baumli discloses either a continuous line of perforations or a discontinuous line of perforations, not both. With respect to claims 15 and 26, should the Examiner continue to state that the line of perforations are "a substantially continuous closed line of perforations," the undersigned would appreciate being advised precisely the manner in which the continuous or discontinuous lines of perforations of Figures 5 and 6 are allegedly "closed."

With respect to claim 16, the Examiner states: "Baumli discloses the minor opposing surface area portions - 7 of the first and second paper sheets first paper surfaces are adhesively bonded to each other - see for example figures 5-6 where the minor opposing surface area portions are adhesively bonded to one another along the side and bottom portions of the packet -1." The undersigned sees no adhesive in Figures 5 and 6 and requests the Examiner to specifically point out in the Baumli specification the portions thereof which allegedly support the Examiner's statements concerning the subject matter of claim 16.

Turning to the rejections of dependents claims 14, 25, 15, 26, 17, 18, 27, 19, 20 and 21, as set forth beginning at the top of page 4 and continuing through the bottom of page 6 of the outstanding Office Action, these rejections are of no moment because independent claim 10 is directed to novel and unobvious subject matter. Hence, the allowance of the latter-identified dependent claims is considered proper and would be most appreciated.

Claim 21 was amended merely to correct a typographical error, i.e., changing "an" to -- a --.

Independent claim 28 has been amended in the same manner as independent claim 10, and obviously the allowance of claim 28 for the reasons heretofore advanced in the discussion of claim 10 is considered proper and would be most appreciated. Those reasons are incorporated hereat by reference in order not to unduly lengthen this record.

However, the Examiner applied the patent to Werjefelt (5,062,229) which discloses a calendar comprised of a plurality of sheets superimposed on each other and a binder for hinging the sheets along one edge thereof so that they might be rotated through at least a half-circle. (See the abstract). The latter disclosure has been utilized by the Examiner in combination with the Baumli disclosure on the basis of the alleged obviousness to a person of ordinary skill in the art "to take the paper product of Baumli and add the plurality of pairs of paper sheets of Werjefelt, so as to allow for the device to be more efficient and cost effective in that multiple quantities of seeds to be transported and subsequently planted by the user." The latter is based upon nothing other than hindsight. Werjefelt does not suggest anything whatever to do with the efficiency or cost effectiveness of transporting and/or planting multiple quantities of seeds. If one were concerned with the latter, the paper product of Baumli, if utilized in multiples, would be placed in a paper box or bag. A person skilled in the art does not increase cost absent valid reasoning, and such must be suggested or motivated by the prior art, not by applicants' disclosure. Accordingly, the rejection of claim 28 based upon the Baumli and Werjefelt patents is totally erroneous and the withdrawal thereof followed by the allowance of claim 28, as well as each of the claims depending therefrom, is considered proper and would be most appreciated.

In view of the foregoing, the formal allowance of this application at an early date would be most appreciated.

Respectfully submitted,

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